

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

KINGDOM OF BELGIUM, FEDERAL PUBLIC  
SERVICE FINANCE,

Plaintiff,

v.

XIPHIA LLC PENSION PLAN, RICHARD  
MARKOWITZ, MATTHEW STEIN, JOHN VAN  
MERKENSTEIJN, FGC SECURITIES LLC,  
ALICIA COLODNER and STEPHEN WHEELER,

Defendants.

21 Civ. 6392 (JGK)

21 Civ. 6399 (JGK)  
21 Civ. 6402 (JGK)  
21 Civ. 6404 (JGK)  
21 Civ. 6405 (JGK)  
21 Civ. 6407 (JGK)  
21 Civ. 6408 (JGK)

**~~[PROPOSED]~~ CONSOLIDATION ORDER**

WHEREAS, on July 27, 2021, Plaintiff Kingdom of Belgium, Federal Public Service Finance (“Belgium”) commenced seven actions in this Court (together with any future actions consolidated herewith, the “Belgium Actions”):

- *Kingdom of Belgium, Federal Public Service Finance v. Xiphias LLC Pension Plan, et al.*, No. 21 Civ. 6392
- *Kingdom of Belgium, Federal Public Service Finance v. Traden Investments Pension Plan, et al.*, No. 21 Civ. 6399
- *Kingdom of Belgium, Federal Public Service Finance v. Lion Advisory Inc. Pension Plan, et al.*, No. 21 Civ. 6402
- *Kingdom of Belgium, Federal Public Service Finance v. Delvian LLC Pension Plan, et al.*, No. 21 Civ. 6404
- *Kingdom of Belgium, Federal Public Service Finance v. Michelle Investments LLC Pension Plan, et al.*, No. 21 Civ. 6405
- *Kingdom of Belgium, Federal Public Service Finance v. Ganesha Industries Pension Plan, et al.*, No. 21 Civ. 6407
- *Kingdom of Belgium, Federal Public Service Finance v. AOI Pension Plan, et al.*, No. 21 Civ. 6408; and

WHEREAS, the parties have agreed on a consolidation of the Belgium Actions for pretrial purposes only;

IT IS HEREBY ORDERED, pursuant to Rule 42 of the Federal Rules of Civil Procedure, as follows:

1. The Belgium Actions shall be consolidated for all pretrial purposes only, including coordination of all fact and expert discovery and pretrial motions, in accordance with the terms of this Order.

2. The action captioned *Kingdom of Belgium, Federal Public Service Finance v. Xiphias LLC Pension Plan, et al.*, No. 21 Civ. 6392 (S.D.N.Y.) (JGK), is hereby designated as the Lead Case for the Belgium Actions. Each of the other Belgium Actions is hereby designated as a Member Case. Every filing in any of the Belgium Actions shall be filed both in the Lead Case and in each of the Member Cases to which it relates. Every filing in any of the Belgium Actions shall bear the following caption, which shall identify the Lead Case and each Member Case to which the filing relates:

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

IN RE:

KINGDOM OF BELGIUM,  
FEDERAL PUBLIC SERVICE FINANCE  
PENSION PLAN LITIGATION

Lead Case: No. 21 Civ. 6392 (JGK)  
Member Case(s): [List]

3. A docket entry shall be made in each of the Belgium Actions, substantially as follows:

A Consolidation Order has been entered in this proceeding directing the procedural consolidation of this action and other related actions for pretrial purposes only. The docket for *Kingdom of Belgium, Federal Public Service Finance v. Xiphias LLC Pension Plan et al.*, No. 21 Civ. 6392 (S.D.N.Y.) is the lead docket for these consolidated actions.

4. All parties to the Belgium Actions shall adhere to the rules and procedures outlined in any protective order or case management order entered by the Court in the Lead Case.

5. Unless otherwise directed by the Court, counsel appearing in any of the Belgium Actions may attend and be heard at a hearing or conference for any of the Belgium Actions.

6. Unless otherwise directed by the Court, in connection with any motion or other application that relates to more than one Belgium Action, each party shall file their papers in the Lead Case, and file identical copies of their papers in each action to which it relates. Unless otherwise directed by the Court, groups of parties may file joint briefs or submissions.

7. All discovery-related documents (including, without limitation, initial disclosures, requests for production, interrogatories, requests for admission, subpoenas, responses and objections, deposition notices and expert disclosures) shall be served on all parties in these consolidated proceedings at the same time they are served on the serving or responding party. Any party may serve discovery requests relating to more than one Belgium Action in a single document. Any party receiving a substantive discovery-related response (including a letter, email or other informal response) from a non-party shall promptly make such response available to all other parties. The parties agree to electronic service of all discovery-related documents and correspondence.

8. Documents produced by any party shall be made available to all parties in the Belgium Actions on the same day, consistent with the terms of any applicable protective order. Any party receiving documents from a non-party pursuant to a subpoena or similar request shall promptly make such documents available to all other parties.

9. Subject to the terms of any applicable protective order, all discovery responses and document productions may be used by any party in any of the Belgium Actions. All parties reserve all rights and objections to the use of any such discovery responses or document productions under the Federal Rules of Civil Procedure and the Federal Rules of Evidence.

10. Counsel for all parties shall be permitted to attend and participate in depositions noticed in any of the Belgium Actions. A deposition transcript created in one Belgium Action may be used in any Belgium Action for any purposes permitted under the Federal Rules of Civil Procedure. All parties reserve all rights and objections to the use of any such deposition transcript under the Federal Rules of Civil Procedure and the Federal Rules of Evidence

11. Any other action filed by Belgium and assigned to this Court that arises out of or is related to the same facts as alleged in the Belgium Actions shall be administratively consolidated for pretrial purposes only, deemed to be one of the Belgium Actions and designated as a Member Case. Counsel for Belgium shall call to the attention of the Clerk of this Court the filing of any action that might be consolidated pursuant to this provision.

12. Nothing in this Order is to be construed as requiring the consolidation of the Belgium Actions for the purposes of trial. All parties to the Belgium Actions reserve their respective rights concerning the consolidation of the proceedings for trial.

SO ORDERED.

Dated: December 18 2021  
New York, New York

/s/John G. Koeltl

Hon. John G. Koeltl  
U.S. District Judge